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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/323,765	06/01/1999	MARK D. SCOTT	259.006US1	9616

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/323,765	<b>Applicant(s)</b> SCOTT ET AL.	
	<b>Examiner</b> Robert C. Hayes, Ph.D.	<b>Art Unit</b> 1649	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02 February 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

*Note that failure to correct all of the following defects will result in ABANDONMENT of this application. Applicant is given 1 month or 30 days from the mailing of this notification of noncompliance, which ever is longer, to file an amended Brief. It is noted that the Notice of Appeal was filed 8/01/05, and therefore, any extensions of time have expired. Again, note that changes have been made in August 2004 on what is required in a properly filed Brief. For example, claims no longer need to recite "shall stand or fall...", even though defining the limitations that make the claims patentably distinct does help clarify the record, and therefore, is advisable. Overall, see MPEP 1205.02.*

2 & 3) The status is "claims 1-26, 28 & 31 are pending". " Claims 27, 29-30 & 32-52 have been cancelled". "The amendment to claim 28 in the After Final amendment of 8/01/05 was entered".

4) The present invention is directed to "non-immunogenic cells", not "a method" of making such, as incorrectly stated on line 10 of the "Summary of claimed subject matter".

5) No separate subheading section for "Grounds of rejection to be reviewed on appeal" exists in the Brief.

6) The rejections fail to address "in light of Lin et al". The 112, 2nd rejection of claim 28 is no longer needed, because it has been withdrawn. No "virus particles" are claimed in this application, and should not appear (i.e., page 10 ( lines 20, 22 & 24) & page 14 (line 13).

8) No copies of the references by Desai, Francis nor Lin et al have been provided in the "Evidence appendix", which should also list these references, versus stating "no extrinsic evidence is relied upon"



ROBERT C. HAYES, PH.D.  
PRIMARY EXAMINER